22: Wiedfeldt--16-17 F-5 (1913) 1914 Formosan Aborigines
116, 423, 614, 621 Atayal

Every clan is the permanent owner of a fixed piece of arable land of about 100 to 130 hectares in size. No one knows how or when this land was assigned to the clan. [17] Every family of the clan may take as much of this clan land as it wishes.

22: Wiedfeldt--25 [2] F-5 (1913) 1914 Formosan Aborigines
116, 614, 602, 619 Atayal

The Atayals have developed two other social institutions which are superior to the individual and are independent of life and death, as well as of the will of the individual. They outlast the changing generations and give stability and strength to the whole Atayal community. Just as each individual belongs to a family, each family is a member of a clan, and each clan in turn is a member of a tribe. No clan can leave its tribe, and no family can leave its clan, unless it is excluded by the decision of the clan.

22: Wiedfeldt--25 [3] F-5 (1913) 1914 Formosan Aborigines
116, 614, 621 Atayal

The clan, karan, or aran, called scha, or village, by the Chinese, consists of from 8 to 30 families which are interrelated and which act for each other, like the Japanese goningumi. Individual clans trace their tradition back to a common ancestor, but all of them must have some blood ties.

22: Wiedfeldt--25 [4] F-5 (1913) 1914 Formosan Aborigines
116, 614, 622 Atayal

The clan has two spokesmen: the clan chief and the full assembly. The office of chief is hereditary. During his lifetime, the clan head designates the worthiest of his sons as his successor. If none of his sons is worthy, he selects a younger brother or another relative... The head of the clan almost never retires from office before his death. Like many another official who has long since become incapable of action, he likes to die in harness. The nomination of a successor is designed to avoid a break in continuity and to make it possible for the present head to exert some influence on the future.

22: Wiedfeldt--25 [5] F-5 (1913) 1914 Formosan Aborigines
116, 623, 614, 527 Atayal

The clan assembly consists of the heads of all the families and the successful head-hunters of the member families. It meets when summoned by the head of the clan, which is regularly on the occasion of the two millet festivals. Aside from these two regular meetings, it meets when it is necessary to impose a punishment or to conduct some legal business.

22: Wiedfeldt--25 [6] F-5 (1913) 1914 Formosan Aborigines
116, 614, 476 Atayal

The clan is a family on a larger scale, amongst whose members there is complete solidarity. Like the family, its prime tasks are economic ones, although they are not so vital and are limited to those which constitute the obligation of the man of the family. It is an assembly of the men, and it undertakes those things which require more than the strength or the ability of the individual man. Thus, it takes care of protection against numerous enemies.

22: Wiedfeldt--26 F-5 (1913) 1914 Formosan Aborigines
116, 423, 614, 432, 574 Atayal

The arable land is the property of the clan. It protects the members in the undisturbed possession of the fields which he has planted. If one clan becomes much larger than another, for example, if it becomes much larger than one which has become reduced in numbers in fighting with the Japanese, the larger clan sometimes buys a piece of arable land from the small clan, paying it about 10 rokoschkaha [MC: clothing used as money] for a hillside plot of 12 hectares. The members of the clan fix the payment of this price by the families in the clan assembly, according to their funds. The families that settle on this hillside have to contribute more heavily. Also, the fines imposed upon the clan are collected in the assembly, as is also the price of the bride for a member whose family can not raise the money, but whom they wish to retain in the clan. Fines are paid to the head of the clan who is entitled to receive them. He organizes a feast with them, or hands the fines over to the family to whom they are due, and the family uses them for the same purpose.

22: Wiedfeldt--26 [2] F-5 (1913) 1914 Formosan Aborigines
116, 224, 476, 614, 736 Atayal

In the hunts, the heads of the clans who take part act as directors and leaders for the members of their clans, for the dekane [MC: hunting association] has no head. If a family belonging to the clan is in distress because of wounds received in war, illness, or death, the neighbors help out, for the clan is a solid unit in aiding each of its members. Poverty or even begging is unknown.

22: Wiedfeldt--26 [3] F-5 (1913) 1914 Formosan Aborigines
116, 614, 527 Atayal

The degree to which the clan feels itself a solid unit may be seen in the common clan festivals at the time of planting and harvesting the millet. These festivals generally precede the tribal festivals, and only members of the clan are permitted to attend them. No woman who has married into another clan may attend them.

22: Wiedfeldt--26 [4] F-5 (1913) 1914 Formosan Aborigines
116, 614, 626 Atayal

The solidarity which exists among the members of the clan is clearly evident in the protection of the member families not only against assaults on their possessions from outside, but even to a greater degree against injuries from within. They help the injured husband or father, but they also encroach upon his position. They give this protection of property, person, and marriage partly in an indirect manner, by virtue of their numbers, and partly directly, in accordance with fixed customs, which correspond exactly to those that are in effect for the tribe.

22: Wiedfeldt--31 F-5 (1913) 1914 Formosan Aborigines
116, 685, 554, 802, 614 Atayal

On the basis of this kind of evidence [MC: i. e. skull trophies], disputed land is awarded to a clan, or a penalty is imposed on a clan. The head of the clan then assigns the land to the family concerned, or demands that they comply with the penalty. In business which concerns only the clan, the procedure is the same. All payments are made by the clan heads, with the occasional assistance of a wise man, that is, one who can surely count up to 30. The payment of the price for a bride, and the adoption settlements, etc., are also mostly made with the help of the head of the clan, for the ordinary Atayal can count up to 5 at the most. In decisions of this sort, where there are two steps, one of which is carried out between clans and the other within the clan, there is no difficulty in putting them into effect, as the tangible nature of what is generally recognized as evidence is a help.

22: Wiedfeldt--31 [2] F-5 (1913) 1914 Formosan Aborigines
116, 614, 686, 622, 626 Atayal

It is unheard of for the head of a clan not to submit to the decision of the tribe, for example, not to pay a fine at once. If a family or an individual does not submit to the judgment of the clan, which very rarely happens, the clan can suspend the family or the individual from the clan. If the suspended member is old, he is not taken in anywhere, and he perishes in misery. If he is young, as a rule he finds employment in a clan which lives at some distance and belongs to another tribe, for all additional labor is very welcome. To be sure, he and his family are a favorite objective of skull hunts on the part of his former comrades in the clan.

22: Wiedfeldt--37-38 F-5 (1913) 1914 Formosan Aborigines
116, 426, 556, 614, 622 Atayal

The richest man in the tribe is said to have 250 rokosch-kaha. [MC: ornamented sleeveless jacket used as money] The next richest is supposedly one who has 80. Since the first man is the head of a clan, probably all of this is not his private property, but merely belongs to him as the representative of the clan and is derived from rather large fines. Be that as it may, since the families have an average of 20 to 30 rokosch-kaha, there are no great inequalities of income among the Atayals. As to their other possessions, there is almost no difference between families. The ornaments which serve as money are not used for any other purposes than those which have been mentioned. In particular, it is never loaned, so that capital in the sense of money, and also interest, are unheard of. If the clan helps a family to assemble the amount needed for a fine or for the price of a bride, this is done from a feeling of solidarity, but the family does not repay the amount, nor does anyone expect them to do so. If a family breaks a tool, the neighboring family helps them out. [38] by giving them the tool if they have two of them. When the first family has made another tool, they give it as a gift to the second family.

22: Wiedfeldt--42 F-5 (1913) 1914 Formosan Aborigines
116, 692, 614 Atayal

Whereas nowadays the corporate body of the state has pushed the injured party to one side, and only in exceptional cases allows him to appear as co-plaintiff, while it acts independently of him through the medium of its experts, an injured party among the Atayals takes the law in his own hands. He kills the adulterer or murderer, and he takes back by force what has been stolen from him. If he can not obtain his rights alone, he calls upon his clan for help, and he alone, or strengthened by his solidarity with his clan, appears as the only plaintiff and demands compensation. The chief of the tribe does not interfere except in the case of an unreasonable demand, or to help determine the identity of the criminal. The fines never flow into the community coffers, that is, those of the tribe, but always into those of the clan, or they go direct to the injured party, who is under obligation to use them for the benefit of the clan.

22: Wiedfeldt--42-43 F-5 (1913) 1914 Formosan Aborigines
116, 421, 614, 672, 692 Atayal

It may be shown that the Atayals recognize the existence of such a thing as a corporation from the fact that the clan has property, buys and sells land, that it has definite representation, and that action may be brought against it, as it may bring action against someone else. In spite of this, I do not think that the Atayals see the clan as a special repository of their legal rights. It is more probable that they merely regard the head of the clan as the member who has to take care of the joint liabilities of the families in the clan together with them and as their authorized agent. Taking the law into one's own hands is not limited to cases of self-defence. For example, if an adopted child runs away, and the adoption money is not returned, the head of the family can take another child from this family or clan without further ado. [43] Other legal principles, such as fixing a term, or full power of attorney, are also known.

22: Wiedfeldt--44 [3] F-5 (1913) 1914 Formosan Aborigines
116, 429, 614, 768 Atayal

The widow is the authorized guardian of the children, and can therefore sell them, or can demand the bride-price for a marriageable daughter. If she is not capable of performing this duty, a neighbor who is a member of the clan, or the head of the clan intervenes. At a glance, this recalls the modern system whereby many municipal authorities may exercise a general guardianship.

22: Wiedfeldt--45 [2] F-5 (1913) 1914 Formosan Aborigines
116, 614, 671, 681, 696 Atayal

The execution of the decision arrived at [MC: in criminal cases] is simple. The clan always bows to the decision in the presence of the chief of the tribe; an individual family, or a single individual almost always does so. If necessary, the clan uses force, or debars a disobedient member from the clan. The injured clan always receives the fine which is due it, even though the clan which is obligated to pay can not always get it from the guilty member, which after all does not mean very much in view of the solidarity of the members of the clan. Thus, the Atayals have a well developed system of criminal law, they possess the most important basic institutions of civil law, and they have orderly legal procedure.

22: Wiedfeldt--46 F-5 (1913) 1914 Formosan Aborigines
116, 571, 602, 614 Atayal

The next highest social institution [MC: above the family], the clan, is based on the blood relationship of the families, which are thus united into a solid unit. Since each member has the same influence on the direction of the clan, each is exposed to the same dangers, and each derives the same profit from it. Joint responsibility, which is the most rudimentary and most easily developed form of common responsibility is in keeping here, especially since more cultivated types of association with limited or graduated responsibility are unknown. The clan is charged with such economic tasks as exceed the capacity of the individual family. In particular, it owns the property which the member families use and own temporarily... It has other important functions in criminal and civil law, and together with the tribe it facilitates the entire legal side of Atayal life.

22: Wiedfeldt--47 [2] F-5 (1913) 1914 Formosan Aborigines
116, 594, 614, 622 Atayal

If the family, which is connected among the Atayals by sexual life and propagation, has received its characteristic form because of the economic tasks which it is called upon to perform, the clan is apparently an enlarged family, whose original chief has retained definite legal and economic obligations of a superior nature.

22: Wiedfeldt--48-49 F-5 (1913) 1914 Formosan Aborigines
116, 64, 182, 614, 631 Atayal

The natural reason for the existence side by side of two superior social institutions, i. e., the clan and the tribe, is space, together with the functions which naturally are incumbent upon them. The tribe occupies 8 to 10 times as much territory as the clan. It would not be feasible to eliminate one of the two organizations, and to give the remaining one all of its functions. The territory occupied by the tribe would be too large to enable the tribe to handle the economic functions of the clan, and to act as owner of all the land. Also, the solidarity of the members of the clan would be impaired by being spread out over too large an area. Reversing the situation, the territory of the clan would be too small to enable the clan to render military and political service. Even the territory covered by the tribe has now proved to be too small for this purpose. The carrying out of their legal customs and their legal procedure would in both cases meet difficulties which could only be overcome by far-reaching changes in the entire social structure. In the organization of society for political functions, the simultaneous existence of two institutions, one of which is subordinate to the other, one of which is regional and the other local, is a logical and necessary thing, which can not be avoided without impairing or even crippling the entire organism. A social organism springs up, however, as soon as we have several people living together. Not only do [49] controversies arise, which must be settled, but there are matters which demand community cooperation and a superior order.

22: Wiedfeldt--52 F-5 (1913) 1914 Formosan Aborigines
116, 476, 614, 619, 622 Atayal

Although a lack of supplies and transportation seriously cripples the power of the Atayals to act, to act, they have not yet been able to rise to performing any services for the body corporate. [MC: i. e. the tribe] They have only their own persons and their own strength to offer... It is different in the case of the clan. Here the members of the clan join in raising the fines and the purchase prices. One might see in this custom the germ of a tax system. If one were to examine the conditions more closely, one might also discover other basic principles of taxation, such as the consideration of the capacity of the individual to pay, or the imposition of a heavier quota on those who are particularly concerned. The head of a clan who keeps the fines that are paid in may also be regarded as a kind of treasurer. One may see how difficult it is to organize a large number of people to united and permanent activity from the fact that economic means can be levied for the clan, with its social and economic functions which are easy to see, but it is not possible to do this for the tribe even in an emergency. One can see how this difficulty increases with the size of the superior body.